

EXAMINER'S AMENDMENT

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 19, 2010 has been entered.

WITHDRAWN REJECTIONS

2. The obviousness double patenting rejection of the claims has been withdrawn due to Applicant's amendments in claims 1, 34 and 36.
3. The 35 U.S.C. 112, second paragraph, rejection of claim 33 has been withdrawn due to Applicant's cancellation of claim 33.
4. The 35 U.S.C. 112, second paragraph, rejection of claims 1, 34 and 36 has been withdrawn due to Examiner's reconsideration: the polyamide graft is "from a polyamide having an amine end group" because, before the polyamide is grafted onto the polyolefin backbone, it is "a polyamide having an amine end group". So, the polyamide graft is "from a polyamide having an amine end group".
5. The 35 U.S.C. 102 rejection has been withdrawn due to Applicant's amendments to claims 1, 34 and 36, requiring that the multilayered structure is a tube.
- The 35 U.S.C. 103 rejection has been withdrawn due to Examiner's reconsideration of the rejections.

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Election/Restrictions

6. Claims 1-5, 7, 8, 10-18, 21, 22, 24-27, 30-32, 34, 36 and 38-40 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 19 and 20, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, claims 19 and 20 are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on April 19, 2007 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

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8. Authorization for this examiner's amendment was given in a telephone interview with Brion P. Heaney on September 17, 2010.

9. The application has been amended as follows:

In the abstract: delete lines 15-19 and delete lines 22-24.

In the claims:

Cancel claim 6.

In claim 7, line 1, replace "Claim 6" with --Claim 1--.

In claim 19, lines 1-2, delete "tank, container, bottle, multilayer film, or".

Cancel claim 24.

In claim 25, line 1, replace "claim 24" with --claim 2--.

Allowable Subject Matter

10. Claims 1-5, 7, 8, 10-22, 24-27, 30-32, 34, 36 and 38-40 are allowed.

Reasons for Allowance

11. The following is an examiner's statement of reasons for allowance:

In regard to independent claims 1, 34 and 36, the prior art of record fails to teach a multilayer structure that is in the form of a tube as claimed in independent claims 1, 34 and 36.

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Conclusion

12. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is (571) 272-1488. The examiner can normally be reached on Monday-Thursday from 9:00am to 7:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Walter B. Aughenbaugh
9/17/10

/Rena L. Dye/
Supervisory Patent Examiner, Art Unit 1782